



Williams settlement and the Emergency Repair Program

Key points

- Settlement of *Williams* lawsuit requires annual assessment of facilities conditions among schools with API ranking in deciles 1-3
- Statewide standard for “good repair” became law in January 2007
- Facilities evaluation tool was adopted in July 2007
- Study shows decrease in “good repair” deficiencies statewide but little change in emergency or urgent facilities needs
- Emergency Repair Program (ERP) was converted from reimbursements to grants in July 2007, with a minimum grant of \$5,000
- Schools with an API ranking in deciles 1-3 in 2006 are eligible to apply for an ERP grant for projects that pose a health and safety threat to students and staff
- Grant application and information are available through the Office of Public School Construction (OPSC)

Background—the *Williams* lawsuit settlement

In May 2000, the American Civil Liberties Union filed a lawsuit against the state of California claiming that the state had failed in its duty to provide students in the lowest performing schools with equal educational opportunity. That lawsuit, known as *Williams v. State of California*, was settled in August 2004. The settlement of the suit resulted in the state instituting new regulations and programs addressing textbooks, facilities maintenance and teacher quality. The law requires a complaint process applicable to all schools, and CSBA has sample board policies and administrative regulations regarding this requirement, including AR 1312.4

- *Williams* Uniform Complaint Procedures.

Under the *Williams* settlement, the county superintendent has the duty to “visit and examine” each school in his or her county ranked in deciles 1-3 on the Academic Performance Index (API). These visits must be conducted at reasonable intervals and at least annually, and at least 25 percent of the visits must be unannounced. The visits are used to:

1. ensure that students have access to “sufficient instructional materials,”
2. assess compliance with facilities maintenance to determine the condition of a facility that “poses an emergency or urgent threat” to the health or safety of students or staff, and
3. determine if the school has provided accurate data for the annual school accountability report card related to instructional materials and facilities maintenance.

Each year the county superintendent must present a report describing the “state of the schools” to the governing board of each school district, the county board of education and the board of supervisors in his or her county.

Requirements for facilities inspections and repairs

To implement the *Williams* provisions pertaining to facilities, AB 607 (2006) defined a statewide standard of “good repair,” effective January 1, 2007. On June 27, 2007, the State Allocation Board adopted a permanent evaluation instrument called the facility inspection tool, with specific objective instructions on how to rate the condition of a school’s facilities on a good/fair/poor scale.

“Good repair” is defined by 15 separate components that are part of a visual inspection to ensure that school facilities are clean, safe and functional.

“Emergency” facilities needs include repairing or replacing existing building systems or structural components that are broken or not functioning properly and that pose a health and safety threat to students and staff at eligible school sites. Such an emergency facilities need could apply to:

- carpet
- electrical
- ground
- HVAC
- irrigation and landscape
- playground equipment
- restrooms
- roofing
- security
- vermin
- walls

For example, emergency issues presenting a health and safety hazard may include such things as torn carpet or cracked cement that presents a tripping hazard, graffiti and broken or nonfunctional HVAC or kitchen equipment, playground equipment, ramps or railings, toilets and sinks, gates and fence locks and drinking fountains.

Schools identified by the California Department of Education (CDE) as ranked in decile 1, 2 or 3 based on the 2006 API are eligible for funding for facilities to address both “good repair” deficiencies and “emergency” facilities needs.

Study of year two status for facilities

A 2007 study by the American Civil Liberties Union Foundation of Southern California and Public Advocates, Inc. quantified the progress being made in the second year of the implementation of the settlement of the *Williams* lawsuit. The study compared reports of “good repair” deficiencies and “emergency or urgent” facilities needs four areas of California in 2004-05 and 2005-06.

The study shows that, statewide, the average percentage of decile 1-3 schools with “good repair” deficiencies or emergency facilities needs decreased between the first and second years of implementation of the *Williams* settlement. “Good repair” deficiencies decreased by an average of 15 percent (from 62 to 47 percent in 2005-06) and emergency repair conditions decreased by 1 percent (from 8 to 7 percent). Please note that because decile rankings change from year to year, the groups of schools being compared may have changed.

Percentage of Decile 1-3 Schools with...

	Good Repair Facility Deficiencies		Emergency Repair Conditions	
	2004-05	2005-06	2004-05	2005-06
Los Angeles County	95%	95%	5%	9%
Sacramento County	88%	73%	1%	0%
Greater Bay Area	75%	63%	30%	35%
Central Valley	57%	39%	15%	16%
California Average	62%	47%	8%	7%

Funding for emergency repairs

In 2004-05 and 2005-06, the emergency repair program was structured as a reimbursement program; a district had to pay for and complete the emergency repairs before it applied to the state for funds. On July 2, 2007, the ERP became a grant program, allowing eligible schools to receive funds before repairs are conducted.

According to the ACLU report, “some site and district administrators expressed reluctance to start emergency repair projects because they were uncertain about whether they would be reimbursed and did not have the funds to pay for them otherwise.” The Legislative Analyst’s Office had also recommended that the structure of the ERP be changed to a grant program to make it less burdensome on districts to make the necessary repairs.

Currently \$300 million is available for districts with schools in deciles 1-3 to access for identified emergency repairs. The application process is administered by the Office of Public School Construction. Grant request forms, specific documentation requirements and additional information appear on the OPSC Web site.

There is a minimum threshold amount of \$5,000 for the emergency repair program, but multiple projects may be submitted in a single application if all of the emergency repairs are at the same site. The district may submit an application for a smaller amount once a year, with an explanation.

State law requires that funds from the program be used to supplement and not supplant existing funds for facilities maintenance. In order to ensure compliance with this provision, the OPSC requires districts to dedicate funds and meet certain deposit requirements. In addition, the district must also be able to document a substantiated health and safety hazard.

Emergency repairs are not just for construction projects that require outside contractors. Districts are allowed to conduct repairs using employees, where feasible.

The number of ERP projects funded has increased from 149 in the first year to 3,377 as of July 25, 2007 (over \$48 million) with another 122 projects (over \$48 million) in the pipeline for approval. Additionally, another 839 projects (nearly \$29 million) completed prior to July 2007 are being reviewed by the OPSC and are awaiting reimbursement.

Board considerations

School boards can address facilities maintenance needs through their roles in setting the direction for the district, establishing an effective structure for the district and ensuring accountability for the district’s performance. For example, boards should ensure the development of a master facilities plan, adopt policies that reflect current law and establish the board’s expectations regarding the conditions of school facilities, allocate or secure adequate funding to address facilities needs, and monitor implementation of programs created by the *Williams* settlement. Additionally, CSBA has sample policies and administrative regulations that encourages districts to set up an inspection program including AR 1312.4 - *Williams* Uniform Complaint Procedures, BP 3517 - Facilities Inspection, BP 7110 - Facilities Master Plan and AR 7111 - Evaluating Existing Buildings.

As part of these responsibilities for facilities, the board should consider the following questions:

- Are routine presentations made to the board on the status of *Williams* complaints about facilities? Is there procedure in place for tracking these complaints?
- Does the board review all reports by the county superintendent pertaining to facilities conditions in district schools ranked in deciles 1-3 on the API?
- Are there specific plans in place to address all the issues identified in the county office of education’s assessment of facilities conditions?
- Do district office staff have the capacity to complete repairs or is there a plan in place to hire outside contractors?
- Does the district have a plan for keeping paperwork and tracking to submit as part of the emergency facilities repair grants?
- Does the district’s master plan for facilities include an ongoing maintenance program to maintain the good repair of facilities and prevent future issues from occurring?

Resources

CSBA

Sample board policies and administrative regulations including AR 1312.4 - *Williams* Uniform Complaint Procedures, BP 3517 - Facilities Inspection, BP 7110 - Facilities Master Plan and AR 7111 - Evaluating Existing Buildings. For more information about subscribing to one of CSBA's policy services, visit www.csba.org/ps.

California Department of General Services, Office of Public School Construction.

Good Repair Standards – Legislative Background.

www.opsc.dgs.gov/SABPrograms/Good_Repair_Std.htm

Williams v. California: The Statewide Impact of Two Years of Implementation. August 2007. ACLU Foundation of Southern California.

www.decentsschools.org/settlement/WilliamsReportWeb2007.pdf

“Improvements Seen to California Schools As Result of *Williams* Case Settlement.” Education Week. Linda Jacobson. August 13, 2007.

www.edweek.org/ew/articles/2007/08/13/45williams_web.h26.html

“OPSC Workload List.” California Department of General Services, Office of Public School Construction. July 27, 2007.

www.opsc.dgs.ca.gov/SABPrograms/ERP_Main.htm

“School Facility Needs Assessment Grant Program Emergency Repair Program Audit Guide: A guide to assist with program reporting requirements.” California Department of General Services, Office of Public School Construction. June 2007.

www.documents.dgs.ca.gov/opsc/Publications/Handbooks/SFNAGP-ERP_Audt.pdf

“Schools improve after lawsuit, study says.” Los Angeles Times. Carla Rivera. August 12, 2007.

www.latimes.com/news/education/la-me-williams12aug12,1,867144.story?coll=la-news-learning

“State’s low-scoring schools improving 3 years after settlement.” San Francisco Chronicle. Nanette Asimov. August 13, 2007.

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